IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 8534 of 2005

Between:

A.V.S.N. Murthy E. 479069, Conductor, Waltair Depot, S/o Appala Raju,
R/o Waltair, Visakhapatnam District

..... PETITIONER

AND

1 The APSRTC rep by Regional Manger, Visakhapatnam Region at Visakhapatnam
2 The APSRTC repby Depot Manager, Waltair, Visakhapatnam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondents herein in imposing the punishment of differement of annual increment for a period of 9 months with cummulative effect without holding any departmental enquiry vide proc.No. TY/95/(90)/90-Waltair, dt 5-08-1997, as illegal, unjust contrary to well established principles of law and as such liable to be set a side by further directing the respondents to refix thepay of the petitioner by adding the differred increment w.e.f. 5-8-1997 and to pay the arrears forthwith and pass such other order or orders as may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: KUM.B.G.UMA DEVI

The Court, at the admission stage, made the following :

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO:8534 of 2005

ORDER:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo on 20-12-1996 on the allegation of unauthorized absence of duty and after receiving the explanation of the petitioner, the final orders were passed on 05-08-1997 imposing the penalty of withholding of one incremental stage for a period of nine months with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment for a period of nine months with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 8 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh** Gill (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment for a period of nine months without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he

has been imposed penalty of reduction of one annual increment for a period of nine months without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. There shall be no order as to costs.

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April 20, 2005

KVR

To

1 The Regional Manger, APSRTC Visakhapatnam Region at Visakhapatnam
2 The Depot Manager, APSRTC Waltair, Visakhapatnam District

3 2 CD copies.

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